

Prioritization Results

Solid Waste Laws Update Process

December 1, 2011

Below are the results of the prioritization phase of the Solid Waste Laws Update Project. In the next step of this process, Ecology plans to solicit solution ideas from stakeholders and staff. We will notify stakeholders via the listserv when work continues. We will use the attached prioritization survey results when we are ready to continue.

For more information, contact Janine Bogar: janine.bogar@ecy.wa.gov; 360-407-6654

Content Summary

- Background
- Prioritization Process
 - Prioritization Stage One Themes and Subthemes (Ecology and stakeholders will begin work on in the solutions phase of this project)
 - Prioritization Stage Two Themes and Subthemes (Ecology will not be working on at this time)
- Appendix A. Text of Selected Subthemes

Background

Solid Laws Update Process

The Department of Ecology is analyzing with stakeholders how to best improve the state solid waste laws as the system changes. This process involves identifying problems, prioritizing those problems, finding potential solutions, and proposing changes. This effort started in 2010 by gathering input on problems with current laws from stakeholders and staff. The information was compiled into 11 overarching themes of problems containing 79 subthemes. The resulting document “Summary of Problems with Solid Waste Laws in Washington: Themes and Subthemes” is available [here](#).

In the summer of 2011, Ecology undertook a prioritization process to winnow down the list using guidance from stakeholders and staff. Prioritization was needed as there are too many identified issues to work on all at once. This document discusses the results of the prioritization process and breaks it down into two stages of work.

Prioritization Process

Prioritization Survey

The online prioritization survey was completed by 79 stakeholders and 36 Ecology staff. The survey asked participants to rank the importance of each of the 79 subthemes on a scale of high, medium, or low, with the option to skip any subtheme. The survey also included an overall ranking of the 11 themes from low (1) to high (11). Comments could also be provided.

Table 1 shows the array of stakeholders who answered the survey. The number totals more than 79 and the total percent is more than 100 as some respondents selected more than one category.

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Based on the survey results, Ecology selected seven themes and 25 subthemes for “stage one” of the solutions phase. These are listed in Table 2. The full text of these subthemes is in Appendix A.

In most cases, these subthemes were selected as they are priorities for both external stakeholders and staff. Of the 25 selected subthemes, 16 were shared priorities between staff and external stakeholders. The majority of the other subthemes were definitions felt to be important by external stakeholders. The interconnectedness of definitions warrants looking at many of them at once.

Table 1. Stakeholder Respondents to Survey		
Stakeholders	Count	Percent
Local Government-Public Works	27	34%
Local Government-Health Dept	12	15%
State Government	6	8%
Manufacturers/producers	6	8%
Retailers	2	3%
Waste companies	14	18%
Recyclers	19	24%
Composters	3	4%
Consultants	3	4%
Tribes	1	1%
Public	4	5%
Education	1	1%
Non-profit	1	1%
Total	99	125%

Not all subthemes from the seven priority themes were selected as priorities. Furthermore, four entire themes, and all their subthemes, were not selected as priorities. These issues were put on the “stage two” list, in Table 3. **This by no means implies the issues are not important and do not merit attention.** It merely implies they did not rise to the top of this prioritization survey. Some reasons for this decision include:

- The need to reduce the list of issues to work on due to limited staff resources.
- Some issues are not best addressed by statute.
- Some of these issues are receiving needed attention through other processes.

The subthemes not in Stage One are still important issues that merit attention. However, that attention may come through other venues besides the solid waste laws update at this time.

However, we recognize the interconnectedness of many of the subthemes, and if opportunities allow, we may address some subthemes on the stage two list as we work on issues in the stage one list.

Finally, we may not be able to address all 25 of the stage one subthemes at once. We may need to further reduce this list due to work load and staffing limitations.

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Table 2. Stage One Themes and Subthemes
Financing <ul style="list-style-type: none"> • Solid waste management priorities conflict with solid waste system financing • Local government has responsibility for solid waste management but often lacks sufficient financial resources • Local governments rely on grants to provide waste reduction, recycling and enforcement programs • Recycling is perceived to be free or that it should pay for itself
Enforcement <ul style="list-style-type: none"> • Local enforcement of solid waste regulation is inconsistent • Exempt facilities criteria and oversight is inconsistent across the state • Enforcement funding is limited • What's a waste, what's a product? • Enforcement authority in the law is lacking • Ecology and other agencies' laws are not always coordinated
Public Awareness & Education <ul style="list-style-type: none"> • Need expansion of public awareness of waste reduction and recycling
Waste Reduction <ul style="list-style-type: none"> • Waste reduction design and incentives are not adequately emphasized. • Packaging provides challenges to reducing waste
Packaging & Products <ul style="list-style-type: none"> • Packaging is often excessive and wasteful • Lack of extended producer responsibility
Definitions <ul style="list-style-type: none"> • Solid Waste • Waste vs. Product • Waste-to-Energy • General issues with definitions • Recycle, Recycling, Recyclables & Recycled Products • Recycling facilities • Diversion • Incidental contamination • Interagency definitions are inconsistent
Roles & Responsibilities <ul style="list-style-type: none"> • Roles need to be defined and clarified between stakeholders, especially between Ecology and local governments

Table 3. Stage Two Subthemes and Themes

Note: Stage Two does not imply these issues are not important.

Financing

- *Taxes on solid waste disposal fund other programs*
- *Landfill fees vary throughout the state incentivizing transport of wastes to the lowest cost landfill*
- *Financing for private innovation is limited*
- *Solid waste permit fees do not cover all permitting cost*
- *Product stewardship programs are not used sufficiently to fund recycling programs*
- *Funding sources for solid waste management infrastructure are inadequate*
- *Solid waste system costs are not properly allocated or evaluated*

Enforcement

- *Beneficial use provisions are not clear or effective*
- *Conflicts of interest exist between local government departments*
- *Sham recycling occurs*
- *Waste disposal on private land is difficult to address*

Public Awareness & Education

- *Education is costly and hard to measure*
- *Public messaging is inconsistent and difficult to distribute*
- *Hotline mandate is outdated*
- *Building contractor education is needed*

Waste Reduction

- *Waste reduction is hard to measure*
- *Insufficient attention and resources are devoted to waste reduction*
- *Waste reduction and the economy are in conflict*
- *The role of local or state government in waste reduction and is unclear and ineffective*

Packaging & Products

- *There are no environmental performance standards for packaging or products in Washington*
- *Purchasing environmentally preferred products is difficult*
- *Recycling of products and packaging is confusing and not incentivized*
- *Planned obsolescence leads to more disposable products*
- *Lack of an integrated product stewardship approach*
- *International commerce limits the ability to make change*
- *Existing product legislation is poorly organized and inconsistent*

Definitions

- *Reuse*
- *Waste reduction*
- *Composting*
- *Vector waste use*

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Table 3. Stage Two Subthemes and Themes

Note: Stage Two does not imply these issues are not important.

Measurement (Entire theme and all subthemes)

- Measurement of the recycling rate is inadequate
- Performance measures for waste reduction are insufficient
- Greenhouse gas emissions are not connected sufficiently to waste management
- Life-Cycle Analysis measurement is not used
- There is no measurement of the public value of recycling
- Additional measurements need to be considered

Infrastructure & Materials Management (Entire theme and all subthemes)

- Markets and manufacturing capacity is inadequate
- Information about materials markets is hard to find
- Organic material processing capacity is insufficient
- Rural areas are lacking recycling infrastructure
- Infrastructure funding, siting and oversight is challenging
- Competition for feedstock inhibits innovative recycling
- Defining recyclables in local plans is restrictive
- Training for facility operations and enforcement is burdensome and outdated
- Collection infrastructure is inconsistent and confusing

Government Walk the Talk (Entire theme and all subthemes)

- Environmentally Preferred Purchasing is hard to implement
- Environmentally Preferred Purchasing is hard to measure and enforce
- Education and awareness about Environmentally Preferred Purchasing is lacking
- Purchasing policies can conflict with Environmentally Preferred Purchasing
- Environmentally Preferred Purchasing can be costly and lacks incentives

Toxics (Entire theme and all subthemes)

- Moderate risk waste collection programs are limited
- There are toxics in products and sufficient protections are not in place
- There is no integrated chemical policy in Washington State
- Designation and management of certain hazardous wastes is confusing and can inhibit reuse

What's Next: the Solutions Phase

In the next step of this process, Ecology plans to solicit solution ideas from stakeholders and staff. We will notify stakeholders via the listserv when work continues. We will use the attached prioritization survey results when we are ready to continue.

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Appendix A. Text of Selected Subthemes for Solutions Phase

This is the text of the stage one subthemes from the document "Summary of Problems with Solid Waste Laws in Washington: Themes and Subthemes." The full document is available [here](#).

FINANCING

- **Solid waste management priorities conflict with solid waste system**

Waste collection and disposal generates revenue. Much of the solid waste system is funded by disposal dollars. When waste generation goes down, or materials are diverted from the waste stream, revenues to some private sectors and government programs decrease. This can be a disincentive for reducing waste. However, waste reduction can save on the cost of disposal, especially for commercial firms.

Chapter 70.95 RCW established waste reduction and recycling as the top two priorities for addressing solid waste. Waste reduction does not offer the opportunity to generate revenue, and recycling offers less opportunities for revenue generation than waste collection and disposal. Many jurisdictions use disposal revenue to fund recycling programs. Waste reduction programs, where in place, are typically funded by waste disposal dollars or limited grant dollars. Successful waste reduction and recycling programs diminish financial resources needed to run these programs and, in some cases, to subsidize other general government expenses.

Regulated garbage companies have a franchise on collecting waste in certain areas. While this has been very effective at providing garbage collection service to all citizens who want it, this system can decrease incentives to reduce waste by recycling or other means. Regulated garbage companies and landfill and transfer station operators lose revenue when they receive less waste, especially if they are not involved in collecting and processing recyclable materials

- **Local government has responsibility for solid waste management but often lacks sufficient financial resources**

Most solid waste management authority is delegated to local governments. Along with this comes the financial burden of assuring functional solid waste operations. Cities can choose to run their own solid waste collection system, or contract for services. Counties must use the services of regulated garbage companies that hold the franchise for that area. Some local governments own and operate processing, transfer, and disposal facilities. Others depend upon these services being provided by the private sector. Nonetheless, local government is required to assure these services are offered to their citizens and typically costs have been covered from local sources. In addition, local public health agencies need adequate funding to provide regulatory oversight of solid waste facilities and to enforce on illegal disposal. Local government does not have enough flexibility or taxing authority to generate revenue to pay for solid waste services.

When revenues decline, jurisdictions must continue to fund waste disposal needs to meet State mandates and prudent practices. When cuts have to be made it often is on recycling program

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funding. Smaller jurisdictions usually have less material and a greater distance to market. There is insufficient monetary incentive for smaller jurisdictions to continue collecting recyclable materials.

Are there ways local governments and private businesses can better work together to efficiently finance solid waste systems? There may be some duplication of efforts, such as education, between local governments and private sector recycling businesses.

- **Local governments rely on grants to provide waste reduction, recycling and enforcement programs**

Grants to local governments for solid waste management activities have varied over the years. Currently, the Model Toxics Control Act (MTCA) provides biennial grants to local governments to update and implement their local solid and hazardous waste management plans. Many local governments depend on those grants to finance some or all of their waste reduction, recycling and moderate risk waste (MRW) collection programs. As state revenues decline grant funds for these programs also decline. If grant funding is no longer available because of budget cuts, some programs may be eliminated. New revenues or approaches will be needed to fund and provide the programs.

- **Recycling is perceived to be free or that it should pay for itself**

The general public has a perception that recycling services such as drop-off and curbside collection is free, and does or should pay for itself. This is not the case. The public is not aware there is a cost to collect and prepare materials for recycling, that often exceeds the costs from sales of the recyclable materials. The public is also not aware of all the benefits of recycling that make it worth the costs. However, educating people that recycling isn't free may disconnect recycling from waste management in people's minds. The public may look at recycling as optional and stop participating.

ENFORCEMENT

- **Local enforcement of solid waste regulation is inconsistent**

Who enforces and implements the rules is a primary issue. By statute, local health departments are responsible for enforcing state solid waste management regulations. Local governments can adopt stricter requirements than state regulations provided they do not conflict with state law. There is concern that regions and counties approach permitting and enforcement inconsistently. Some jurisdictions may be less focused on potential environmental and human health impacts from poorly operated solid waste handling facilities and unpermitted waste disposal than others.

Solid waste handling facilities are permitted and regulated by the local health department. Not all local health departments have staff with the expertise or time allocated to carry out these duties. In some jurisdictions, due to limited staff and resources, regulations are not enforced or are enforced by staff not proficient in solid waste issues. Ecology can provide needed expertise, if requested.

Differing interpretations of solid waste regulations lead to different permitting requirements and exemptions in jurisdictions. Similarly, local health districts take different approaches to regulatory

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oversight for facilities managing street wastes. This can result in an uneven playing field for building, permitting and operating solid waste infrastructure within which companies compete. It can also be a disincentive for private industry to invest in new infrastructure. Interpretations of the law and requirements are not transparent among jurisdictions.

Statute provides health departments only criminal enforcement mechanism and the courts typically have large case loads. The ability to apply civil infractions could ease up the work load.

Because of potential conflict of interests, some feel that permitting and enforcement functions should be removed from local health departments and handled by a state agency committed to state waste reduction goals and policies.

Many believe enforcement should remain a local jurisdiction responsibility. However, there is recognition that more standardized enforcement is needed, and funds made available to do so. Some local jurisdictions do an excellent job with enforcement, but many do not because of lack of resources, expertise or local enforcement priorities. Some have concerns about the state having primary enforcement responsibility, which would have funding and logistic limitations of its own. The state could, however, do more to address specific items such as sham recycling, beneficial use determinations, and oversight of exempt facilities to increase consistency among jurisdictions. A delegated authority model is a potential idea, similar to the air authority model which works well.

- **Exempt facilities criteria and oversight is inconsistent across the state**

Some facilities are exempt from permitting if they meet certain criteria. Decisions on exemptions can vary among jurisdictions, which can result in a similar facility in one county being required to have a permit while a similar facility in another county being exempt from solid waste permitting.

Facilities operating in exempt status may not receive regulatory oversight from the local health department. The health department funds oversight activities by the permit fees. Without a permit fee, there is no funding for local oversight. Therefore, it may not be known if the facility is operating within the conditions of the exemption. Without a permit fee, allegedly exempt facilities are not contributing their fair share to fund enforcement.

The exemption process can encourage more businesses to participate in recycling, generating innovation. However, not all reuse and recycling is environmentally benign. Interim solid waste handling facilities and recycling facilities deal with significant quantities of waste materials that could potentially have health risks.

Some feel that all facilities handling solid waste should be regulated and issued a solid waste permit to ensure environmental protection and exemptions from solid waste permitting for certain solid waste handling activities should be eliminated. Without a permit, no assurance of environmental protection is provided. Facilities claiming an exemption may in fact not qualify for the exemption, yet simply by

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claiming the exemption, those facilities fall outside of the focus of the regulatory agencies. There should be a minimum annual site verification of exempt solid waste facilities to confirm operations continue to meet conditions of the exemption. Others feel that if solid waste permitting were less burdensome there would be no real need for exemptions.

Processing of recyclables which have a long history and have proven not to pose environmental risks should be provided more incentives and less bureaucratic red tape.

- **Enforcement funding is limited**

Enforcement needs to be coordinated with the financing issue, as local health departments have limited resources to pursue enforcement activities. Adequate funding is needed in order for local jurisdictions to provide sufficient oversight. Demands on local health departments are high and resources to address those demands don't match expectations. When solid waste infractions are referred to a prosecutor's office, the action is often perceived to be of a lower priority than the other issues facing a public prosecutor. Many illegal dumping cases are dismissed due to limited resources. The health department funds facility oversight activities by permit fees. As mentioned earlier, facilities operating exempt from solid waste permits do not pay permit fees in most circumstances. Without a permit fee, there is no funding for local oversight of exempt facilities. Many resources at the state and local level are devoted to planning, instead of policing. Flow control is one method to secure disposal fees for a jurisdiction to provide stable funding; however, it needs to be enforced as well.

- **What's a waste, what's a product?**

It is not well-defined when a material is a solid waste and when it is a product or byproduct (or a material outside the realm of solid waste). Having a clearer distinction would help determine how a material is handled and by whom, what regulations apply, and what can be done with it once it is collected, processed, or stored. For more details on this issue, see the *Definitions* theme.

- **Enforcement authority in the law is lacking**

Local governments need clear authority and statutory avenues for many solid waste enforcement issues, including landfill operations and moderate risk waste collection facilities. However, most violations of the solid waste law listed in Chapter 70.95 RCW only concern illegal dumping of solid wastes. The authority to enforce on many other solid waste issues is not provided for, including enforcement on a facility not meeting regulatory requirements. Furthermore, mostly criminal prosecution is addressed in Chapter 70.95 RCW.

The state is also lacking enforcement authority in the current law. For example, local governments are required to write and update local solid waste management plans, but the state has no authority to ensure this occurs. The law has no requirement to implement the plans if and when they are adopted.

Ecology is not currently authorized to compel health departments to fulfill their enforcement duties. This is needed, for example, when health department budgets are cut to the extent they cannot fulfill

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their duties. If a local health department doesn't enforce on a violation at a permitted facility, there's no authority for Ecology to pursue enforcement. The state's direct enforcement authority is limited to sending solid waste permit-exempt facilities a *Notice of Violation*, which documents that a violation has occurred and the penalties for failure to correct the situation. The state has rarely taken enforcement action against non-compliant exempt facilities.

There is no authority for any state agency to enforce waste reduction, the first solid waste management priority in the law.

Some feel that present laws and rules are, for the most part, appropriate and sufficient. The primary problem is lack of coordination, application and serious enforcement--not the laws and rules themselves. An example is the lack of enforcement of the law governing the Transporters of Commercial Recyclables (RCW 70.95.400). Enforcement authority needs to allow regulators to move quickly on enforcement when illegal activity is happening. We need positive interactions between regulators and operators that lead to environmentally beneficial solutions.

- **Ecology and other agencies' laws are not always coordinated**

There are many points of confusion between Ecology and other agencies' laws. Ecology and the Utilities and Transportation Commission regulations have different definitions of solid waste, which results in conflicts. This, and other inconsistencies, makes implementation of programs difficult and authorities unclear.

Additional examples of inconsistencies between Ecology and other agencies' laws and rules include:

- Ecology and Department of Natural Resource regulations on reclamation pits and inert waste.
- Fire codes and wood waste related to compost piles and pile heights.
- Clean Air Agency regulations on composting, air pollution, best available technology, and Ecology's solid waste composting rules.

There are also coordination issues between different Ecology programs and standards:

- Solid waste versus industrial waste, such as acceptance of solid waste or wood derived fuel with incidental solid waste into energy recovery facilities.
- Inability to determine compliance with the exemption for material recovery facilities regarding percentages of incidental amounts of non-recyclables allowed.

PUBLIC AWARENESS & EDUCATION

- **Need expansion of public awareness of waste reduction and recycling**

Significant waste reduction is not being realized and recycling programs need to be more effective. More public awareness and education on waste reduction and recycling is needed. There is a need for more targeted, specific education on waste reduction, including education for the public on not overbuying. This would greatly help promote waste reduction.

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Local waste and recycling service providers need encouragement and assistance to generate promotional education materials that will help their local businesses while promoting waste reduction and recycling. Public education needs to be a part of every new program and messaging to school-aged children, such as a K-12 environmental curriculum. We need to educate a new generation of environmentally conscious adolescents and adults. Any educational program will require continuous and innovative effort.

WASTE REDUCTION

- **Waste reduction design and incentives are not adequately emphasized.**

Waste is a design flaw. Incentivizes are needed to encourage re-design of products and packaging to be less wasteful and more recoverable. Advantages for non-disposable packaging and products need to be created. Emphasis on producer responsibility can encourage design for durability, recyclability, reduced packaging, and promote waste reduction. Waste reduction also reduces the need to mine more natural resources to produce new packaging and products.

- **Packaging provides challenges to reducing waste.**

There were many comments that noted packaging as a significant stumbling block to reducing waste. Unnecessary packaging, multi-material packaging, and non-recyclable plastic packaging all inhibit waste reduction. The upstream reduction of packaging is an important place to focus attention.

Conversely, product protection dictates some of the packaging used in order to protect products from damage during transport and theft on the shelf. For more on packaging, refer to the discussion in the ***Packaging and Products Theme***.

PACKAGING & PRODUCTS

- **Packaging is often excessive and wasteful**

Packaging is a primary target for reduction in the solid waste stream. It is frequently non-recyclable, made of multiple materials, and excessive. Packaging needs to be reduced, recyclable or compostable. Packaging also needs to be nontoxic. Packaging changes can only be made upstream by the producer. Manufacturers need incentives to reduce packaging.

Product packaging is required to protect the product from damage during transport, and from theft and spoilage while on the shelf. Some packaging prevents waste. Efforts to reduce product packaging need to consider the important role of packaging in product protection.

Should limited resources of time and funding be spent on the national issues like packaging, or would those resources be better spent on what we can impact locally, like infrastructure or illegal dumping?

- **Lack of extended producer responsibility**

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Once a product is sent out of a production facility, the producer has no further responsibility for that product in relation to its environmental performance and end-of-life management. Products are not designed or made with life-cycle impact and end-of-life management in mind. The cost of a product's end-of-life management is not included in the product's initial cost.

DEFINITIONS

- **General issues with definitions**

Definitions are very important. They establish the framework of solid waste management in Washington. Caution should be used when considering changes to current definitions. Impacts and risks of definition changes, as well as the relationships and consistencies with other laws need to be considered. Definition changes will need to be coordinated between regulations and statutes.

Consideration should be given to how changes or additions to statutory definitions can influence reuse, innovation, competition, and services that support the state's waste management hierarchy. The statute should encourage a system that views materials as resources first, and as a waste only after reduction, reuse, and recycling options are exhausted. Definitions in both statute and regulation need to be clear for regulators and those required to comply with the laws and rules. Terms should not be vague or provide compliance loopholes. Definitions can be used to avoid legitimate disposal and recycling procedures. Changes to definitions could open the door to more sham recycling

- **Solid Waste**

The definition of *solid waste* is different between agencies, specifically Ecology and the Utilities and Transportation Commission (UTC). Ecology includes recyclables in the definition and the UTC does not. City contracts and local government solid waste plans and programs have been established based on the inclusion of recyclable materials within the definition of solid waste and changing this would have repercussions. Others think we need to change the definition of solid waste to exclude recyclable materials and have the term only apply to materials destined for final disposal. This could make potentially recyclable materials more available for diversion from disposal. If management of recyclable materials is necessary, it could be regulated under a different law or heading.

- **Waste vs. Product**

State law does not define when a waste becomes a product, a by-product, or a residual. These terms need to be defined to support converting wastes to resources. Considerations should include protecting human and environmental health, and the need for permits or financial assurance when dealing with potentially unsafe wastes. How *waste* and *product* are defined determines how the material is handled and by whom, what regulations apply, what fees can be assessed, and what can be done with the material once it is collected, processed, or stored.

Private industry is always looking for ways to increase revenue, create viable products, and accept additional materials for recycling. There needs to be a more effective method for regulators to recognize changing beneficial uses for wastes. Terminology often lags behind technology.

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Compost and anaerobic digestion are the only processes with regulatory statements on when a waste becomes a product. For composted materials, the regulations specify the compost is no longer a solid waste at the end of the compost process (if the material passes the compost tests). Digestate from a permit-exempt anaerobic digester is no longer a solid waste if it is managed in accordance with an updated dairy nutrient management plan. For other waste materials that go through a recycling or reuse process, no regulatory definition exists for when the material is no longer a waste.

There is additional confusion between the terms *solid wastes* versus *hazardous wastes* versus *product*. An example is acetone. One company uses the pure product, another company can use a slightly contaminated acetone, and a third company can employ the final, used material. When is this material a product versus a waste, or, more clearly, a waste versus a continued-use product? Hazardous and solid waste regulations and definitions of *solid waste* and *recycling* can be in conflict.

Regulated garbage collectors have rights to solid wastes generated in their franchise area. This makes it difficult for other businesses to access materials defined as a solid waste in the waste stream for new or innovative recycling efforts to create products

- **Waste-to-Energy**

New approaches for deriving energy from wastes have been developed, and solid waste laws have not kept pace with these developments. Definitions in the law may be in conflict. Issues related to waste used for energy need to be clarified. Terms that might need addressing include: *anaerobic digestion*, *energy recovery*, *landfill gas recovery*, *commercial boiler fuel*, *biofuel* and *bioenergy*. Definitions for *wood derived fuel*, *hogged fuel*, *woody biomass*, and *wood waste* may also need consideration for consistency. How these potential waste-to-energy strategies relate to green energy may need to be defined, as well.

Confusion about waste-to-energy definitions is also related to waste versus products, or waste versus commodity issues. Some proposals to use wood waste for energy call it a commodity, when others feel this is a form of solid waste incineration.

- **Recycle, Recycling, Recyclables & Recycled Products**

Recyclable materials are required to be specified in local Comprehensive Solid Waste Management Plans (CSWMP), but some question the value in this. It can limit legitimate recycling and curtail innovation. As currently implemented, this requirement under CSWMP creates a ceiling for recyclables, rather than identifying the floor. Health departments could even assert an activity is not recycling because materials being managed are not listed in the CSWMP as recyclable materials. If a new recycling operation is proposed, that recyclable material must be in the CSWMP in order for the operation to be properly exempted from permitting. Similarly, if the county would like to add materials to the recycling collection program, the materials need to be included in the plan before they can be added. This can delay recycling opportunities, as updating plans is an infrequent, lengthy, and expensive process.

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Often in daily use, the term *recycling* gets confused with the collection of recyclables, especially in discussions about measurement. *Recycling* is defined as remanufacturing or transformation of materials into products. Setting materials out for collection is not recycling. *Recycled products* may benefit from a definition.

- **Recycling facilities**

Recycling facilities are not defined in law or regulation, though each term is defined separately. *Recycling* is defined and consistent in both statute and rule. *Facility* is defined in rule. The terms can be combined for a definition of *recycling facility*. There is some confusion between the use of the terms *recycling facility* and *processing facility*, and what should and shouldn't be regulated. This may be partly because processing facilities are perceived to be recycling.

The statutory definition of *recycling* results in confusion between what is considered actual recycling versus intermediate handling. Intermediate solid waste handling facilities (defined in WAC 173-350-310) include preliminary processing, such as collection, compacting, repackaging, and sorting for the purpose of transport. These are some of the excluded intermediate handling procedures described in the regulatory definition of *recycling* that actually results in transformation of recyclables into marketable materials.

- **Diversion**

The difference between waste diversion and recycling is not always clear. *Diversion* refers to materials that are taken out of the waste stream. This confusion between diversion and recycling includes Ecology's measurement of recycling rates and diversion rates. The current use of the word *diversion* is not aligned with the law. Some think the term *diversion* refers to prohibiting individuals from culling high-value recyclable materials from collection programs for personal use or profit, or to waste generated out-of-state

- **Incidental contamination**

Incidental contamination of waste in recyclable materials is an important issue that lacks clarity. It can affect who should be hauling what materials and whether permits are needed for processing facilities.

- **Interagency definitions are inconsistent**

Where possible, there is a need to make definitions consistent among agencies using the same terms in statutory definitions. For example, the laws governing the Utilities and Transportation Commission and Ecology are not consistent in their definitions of *solid waste* and *recycling*, though this is intentional. Reconciling differences in statutes using the same terms may prove very difficult to accomplish and will be very labor intensive

ROLES & RESPONSIBILITIES

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- **Roles need to be defined and clarified between stakeholders, especially between Ecology and local governments**

Who can and should have responsibility for what roles in solid waste management? There are many components needed in a solid waste system to meet the waste management priorities of Washington State. Different entities are involved in these areas to varying extents.

Components include:

- | | | |
|---------------------------------|---------------------------------|--------------|
| •Public education | •Market development | •Enforcement |
| •Product end-of-life management | •Product and packaging design | •Consumption |
| •Performance measures | •Product certification programs | •Bans |
| •Rate setting | | |

Entities include:

- | | | |
|--------------------------|-------------|---|
| •Consumers | •Ratepayers | •Governments (city, county, state, federal) |
| •Manufacturers/producers | •Retailers | •Marketers |
| •Waste companies | •Tribes | •Recycling companies (processors, brokers, end-users) |

Government roles:

Government can impact solid waste management through legislation, regulation, planning, enforcement and implementation of programs. Some stakeholders want more clearly defined roles between local and state government in rules and laws. Many said that there needs to be more consistency between local regulations and state agencies. How much of a role governments should have and whether it can or should occur at the local, state, or federal level is not agreed upon.

Larger governments may have more ability to take action. They could require businesses to reduce packaging and waste generation, require recycled content in products, standardize products and measurements, support pollution prevention, ban disposal or use of certain materials, remove toxics, require safer alternative chemicals, mandate consumer information on products, and use purchasing power to impact product design and availability. Governments are not necessarily good at creating markets. Governments have provided education, but have limited funds to do so. Performance measures are typically established and tracked by governments. In Washington, government oversees rate setting for some waste services. It has been suggested that government should certify product certification programs, to eliminate green washing.

A beneficial use of local resources could be to align solid waste, local health, and land use codes with existing system demands and likely developments. Building and planning departments could assist in educating contractors in the correct management of solid waste and recyclables.

Ecology and local government roles:

The roles between Ecology and local governments need clarification. Who does enforcement and who implements the rules is a primary issue. Inconsistencies in enforcement could be addressed by having

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all enforcement handled through the state, but this would have funding and logistical limitations of its own. The state should, however, address specific items such as sham recycling, beneficial use determinations, and oversight of exempt facilities to increase consistency between jurisdictions.

Some people mentioned conflicts of interest that stem from defined roles and responsibilities in Chapter 70.95 RCW. Many local governments depend on landfill tip fees and need the revenue generated from waste. Conflict can arise in that local governments can have operational, permitting and enforcement authority over the solid waste and recycling facilities.

General public roles:

Consumers, taxpayers, and the general public also have roles and responsibilities. They need to purchase environmentally preferred products, and they have a key role in proper recycling and waste disposal.

Private industry roles:

Private industry can have a vital solid waste management role. Industry decisions can impact use of recyclable materials, product packaging and design, product end-of-life, education, and marketing. Industry has been more involved in performance measures and certifications. When regulated garbage companies integrate recycling and composting into their businesses, this aids the public and the waste companies.